

REMARKS

Claims 1-17 are pending in the application. In the Final Office Action of September 26, 2003, the Examiner made the following disposition:

- A.) Rejected claims 1, 4-8, 10, 12-15 and 17 under 35 U.S.C. §102(b) as being anticipated by *Shiemann*.
- B.) Rejected claims 2 and 3 under 35 U.S.C. §103(a) as being unpatentable over *Shiemann* in view of *Reed*.
- C.) Rejected claim 9 under 35 U.S.C. §103(a) as being unpatentable over *Shiemann* in view of *Everette et al.*
- D.) Rejected claims 11, 13, 14 and 16 under 35 U.S.C. §103(a) as being unpatentable over *Shiemann*.

Applicant respectfully traverses the rejections and address the Examiner's disposition as follows:

- A.) Rejection of claims 1, 4-8, 10, 12-15 and 17 under 35 U.S.C. §102(b) as being anticipated by *Shiemann*:

Applicant respectfully disagrees with the rejection.

Applicant's independent claim 1, as amended, claims a container comprising a first container portion having a wall defining an interior and an exterior of the first container portion, and a second container portion having a wall defining an interior and an exterior of the second container portion. The second container portion has a substantially open top portion having an opening area substantially equal to an area of a parallel cross-section of the second container portion at a largest diameter of the second container portion. (An illustrative example of the substantially open top portion 48 of the second container portion 28 is illustratively depicted in Figure 3). The exterior of the second container portion is spaced apart from the exterior of the first container portion via a connecting portion. The first container portion, second container portion and connecting portion are co-molded.

Applicant's independent claim 15, as amended, claims a method of forming a container, the method comprising the steps of: co-molding a wall defining an interior and an exterior of a first container portion, a wall defining an interior and an exterior of a second container portion having a substantially open top portion having an opening area substantially equal to an area of a parallel cross-section of the second container portion at a largest diameter of the second container portion, and a connecting portion integral to and spacing apart the exteriors of the first container portion and the second container portion.

This is clearly unlike *Shiemann*, which fails to disclose or even suggest a second container portion having a substantially open top portion having an opening area substantially equal to an area of a parallel cross-section of the second container portion at a largest diameter of the second container portion. Referring to *Shiemann* Figure 1, *Shiemann* discloses a second container portion 13 that has a spout with a threaded neck 16. The spout opening, which is surrounded by the threaded neck 16, has an opening area that is clearly much smaller than an area of a parallel cross-section of the second container portion 13 at a largest diameter of the second container portion 13. Therefore, *Shiemann* fails to disclose or suggest a second container portion that has a substantially open top portion. *Shiemann's* second container portion's top portion is not substantially open, but is instead substantially closed with a small opening.

Accordingly, unlike Applicant's claims 1 and 15, *Shiemann* fails to disclose or even suggest a second container portion with a substantially open top portion.

Claims 4-8, 10, 12-14 and 17 depend directly or indirectly from claims 1 or 15 and are therefore allowable for at least the same reasons that claims 1 and 15 are allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

B.) Rejection of claims 2 and 3 under 35 U.S.C. §103(a) as being unpatentable over *Shiemann* in view of *Reed*:

Applicant respectfully disagrees with the rejection.

Applicant's independent claim 1 is allowable over *Shiemann* as discussed above. *Reed* still fails to disclose or suggest a second container portion having a substantially open top portion having an opening area substantially equal to an area of a parallel cross-section of the second container portion at a largest diameter of the second container portion. To begin with, unlike Applicant's claims 1 and 15, *Reed* fails to teach a co-molded second container portion, and instead teaches an attachable second container portion. Further, *Reed's* second container portion does not have a substantially open top portion having an opening area substantially equal to an area of a parallel cross-section of the second container portion at a largest diameter of the second container portion. Similar to *Shiemann*, *Reed* discloses a second container portion 6 that has an opening 7 that has an opening area that is clearly much smaller than an area of a parallel cross-section of the second container portion at a largest diameter of the second container portion. Therefore, *Reed* fails to disclose or suggest Applicant's claimed second container portion.

Accordingly, *Shiemann* in view of *Reed* still fails to disclose or suggest Applicant's claim

1.

Claims 2 and 3 depend directly or indirectly from claim 1 and are therefore allowable for at least the same reasons that claim 1 is allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

C.) Rejection of claim 9 under 35 U.S.C. §103(a) as being unpatentable over *Shiemann* in view of *Everette et al.*:

Applicant respectfully disagrees with the rejection.

Applicant's independent claim 1 is allowable over *Shiemann* as discussed above. *Everette* still fails to disclose or suggest a second container portion having a substantially open top portion having an opening area substantially equal to an area of a parallel cross-section of the second container portion at a largest diameter of the second container portion. Similar to *Shiemann*, *Everette* discloses a second container portion that has an opening area that is clearly much smaller than an area of a parallel cross-section of the second container portion at a largest diameter of the second container portion. The walls of *Everette*'s second container portion slope upwards toward a center of the container, such that the top portion opening area is substantially small.

Accordingly, *Shiemann* in view of *Everette* still fails to disclose or suggest Applicant's claim 1.

Claim 9 depends directly or indirectly from claim 1 and is therefore allowable for at least the same reasons that claim 1 is allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

D.) Rejection of claims 11, 13, 14 and 16 under 35 U.S.C. §103(a) as being unpatentable over *Shiemann*:

Applicant respectfully disagrees with the rejection.

Applicant's independent claims 1 and 15 are allowable over *Shiemann* as discussed above.

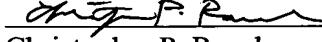
Claims 11, 13, 14 and 16 depend directly or indirectly from claims 1 or 15 and are therefore allowable for at least the same reasons that claims 1 and 15 are allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

CONCLUSION

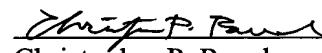
In view of the foregoing, it is submitted that claim 1-17 are patentable. It is therefore submitted that the application is in condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

  
(Reg. No. 45,034)  
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